

REMARKS/ARGUMENTS

In view of the filing of this Request For Continued Examination, the amendments to the claims and the following remarks, reconsideration of the application is respectfully requested.

Initially, the Applicant respectfully traverses the restriction requirement set forth in the final Office Action dated December 28, 2004 where the Examiner withdrew claims 84-98 and 100-112 from consideration based on an election by original presentation. Apparently, the Examiner has made a major distinction between providing unpopped popcorn in a microwave package verses popping popcorn through the use of microwaves. As one would inherently need to have popcorn in a microwave package or container in order to pop popcorn in a microwave, it is respectfully submitted that this distinction does not warrant restriction of these claims. Regardless, independent claims 82, 88 and 91 have been amended to set forth both the steps of providing the popcorn with sucralose or acesulfame K and popping the same. Therefore, these claims include the originally claimed subject matter and additional details such that these claims are encompassed by the original election. Of course, these claims are presented in a continued examination application such that examination of all the claims in the application are respectfully requested.

In order to further the prosecution, the Applicant has simplified the application by canceling claims 96-98, 100, 101, 103-105, 107, 108 and 112. As for the withdrawal of the subject matter of claim 92, it is respectfully submitted that, again, providing a popcorn snack combined with sucralose as claimed in a microwave package would be required in order to pop the popcorn snack in a microwave oven. To this end, it is respectfully submitted that this claim should be clearly searched with the subject matter of claim 99 directed to the microwaveable popcorn composition, with the subject matter of those claims being encompassed by a common search as already fully conducted by

the Examiner. New dependent claims 116-127 have been added to the application to further distinguish the present invention from the applied prior art and to re-present the customizable aspect of the invention indicated by the Examiner to be withdrawn in the previous amendment.

With respect to the application of prior art, independent claim 99 was previously rejected in three different ways. Each of these rejections will be individually discussed and it is respectfully submitted that these arguments also pertain to each of the independent claims present in the application. Initially, claim 99 was rejected based on UK Patent Publication No. 2250266 (Ezzat) in view of Goggle Groups Publication of December 9, 1999. As stated by the Examiner, Ezzat is directed to a microwave package that can include popcorn and potentially salt, butter and sugar. Ezzat is silent with respect to the sucralose feature of the present invention. In recognizing this deficiency in Ezzat, the Examiner relies upon the teachings in the Google Groups Publication. The Examiner correctly recognizes that the Google Groups only teaches sucralose for sweetening "microwave popped popcorn." That is, the Google Groups Publication does not reference sweetening unpopped popcorn or, more particularly, unpopped microwave popcorn. Instead, the disclosure only suggests adding sucralose to popcorn "after it pops." To this end, the deficiencies in Ezzat is not overcome by the combination presented by the Examiner. At best, this combination would suggest adding additional sucralose to the popcorn of Ezzat after the popcorn is cooked and fully popped. Therefore, the prior art relied upon by the Examiner does not provide the motivation for adding the sucralose to the popcorn and cooking the sucralose with the popcorn. Cooked popcorn and sucralose is quite different from simply adding sucralose upon popped popcorn. To this end, it is respectfully requested that the rejection of the claims be withdrawn.

Claims 99-113 have also been rejected based on U.S. Patent No. 5,747,080 in view of Ezzat and the Google Groups Publication. With respect to the '080 patent, this patent is concerned with adding micronutrients to popcorn and, particularly, adding micronutrients shortly before popping or at the latest during popping. This is clearly set forth in the patent such as in column 4, lines 29-35. There is absolutely no mention of utilizing sucralose on popcorn prior to popping, a fact which is recognized by the Examiner. It is respectfully submitted that the additional references also do not suggest this feature of the invention for the reasons discussed above. In addition, it is respectfully submitted that the limitations set forth in connection with opening of the popped microwave package after the popcorn is popped (see new claims 116 and 17) is directly contrary to the teachings in the '080 patent which must open the popcorn shortly before popping or at least during popping in order to add the micronutrients.

Finally, the rejection of claims 99 and 113-115 based on U.S. Patent No. 4,751,090 in view of each of the '080 patent, Ezzat and the Google reference still lacks any teaching or suggestion of putting sucralose on popcorn prior to popping of the popcorn. The same is true with respect to the inclusion of the acesulfame K. In general, at best, the Examiner teaches providing sugar with popcorn prior to popping and sucralose upon popcorn after popping. There is absolutely no teaching in the references themselves directed to providing sucralose on unpopped popcorn in a microwave package. This leap in addressing the limitations of the claims has come solely from the Examiner. Without a teaching of providing sucralose on unpopped popcorn and then microwave cooking both the unpopped popcorn and the sucralose together until the popcorn pops, it is respectfully submitted that the Examiner has not shown that the present invention was known in the art or obvious to one of ordinary skill in the art prior to the present invention. Therefore, withdrawal of the rejection of the claims and allowance of the same are respectfully requested. If the Examiner should have any

additional concerns regarding the allowance of this application, he is cordially invited to contact the undersigned at the number provided below to further expedite the prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Everett G. Diederiks, Jr.", written over a horizontal line.

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